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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ANNA ESCOBEDO,

Plaintiff,

v.

BIG LOTS STORES, INC., an Ohio
corporation, dba BIG LOTS STORE
#4054, PNS STORES, INC., a
California corporation, MIDEB
NOMINEES, INC., a Nevada
corporation, and DOES ONE TO
TEN, inclusive,

Defendants.

Case No. CV 08-01874 PSG

Civil Rights

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES: DENIAL OF
CIVIL RIGHTS OF A DISABLED
PERSON IN VIOLATION OF THE
AMERICANS WITH DISABILITIES
ACT OF 1990; VIOLATION OF
CALIFORNIA'S CIVIL RIGHTS
STATUTES

JURY TRIAL REQUESTED

Plaintiff ANNA ESCOBEDO complains of defendants BIG LOTS STORES, INC., an Ohio corporation, dba BIG LOTS STORE #4054, PNS STORES, INC., a California corporation, MIDEB NOMINEES, INC., a Nevada corporation; and DOES ONE TO TEN, inclusive, and alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction of this action pursuant to 28 USC § 1331 for violations of the *Americans with Disabilities Act of 1990*, (42 USC § 12101, *et seq.*) Pursuant to pendant jurisdiction, attendant and related causes of action, arising from the

1 same facts, are also brought under California law, including, but not limited to, violations
 2 of *California Health & Safety Code* § 19955, *et seq.*, including *California Code of*
 3 *Regulations*, Title 24, § 19959, *California Civil Code* §§ 51, 51.5, 52(a), 52.1, 54, 54.1,
 4 54.3 and 55.

5 2. Venue is proper in this court pursuant to 28 *USC* § 1391(b) and is founded
 6 on the fact that the real property which is the subject of this action is located in this
 7 district, in Santa Maria, Santa Barbara County, California, and that Plaintiff's causes of
 8 action arose in this district.

9 INTRODUCTION

10 3. The **BIG LOTS STORE #4054** is located at 1417 S. Broadway, Santa
 11 Maria, California. Said store is owned and operated by defendants **BIG LOTS**
 12 **STORES, INC., PNS STORES, INC., MIDEB NOMINEES, INC., and DOES ONE**
 13 **TO TEN, inclusive.**

14 4. Defendants **BIG LOTS STORES, INC., PNS STORES, INC., MIDEB**
 15 **NOMINEES, INC., and DOES ONE TO TEN, inclusive**, operate an establishment for
 16 services to the public and at which Defendants failed to provide barrier free access to said
 17 establishment in conformity with both Federal and California legal requirements.
 18 Further, Defendants failed to provide compliance as follows:

19 **Entrance**

- 20 1. There is no International Symbol of Accessibility signage at the
 21 entrance in violation of California Title 24 §1117B.5.8.1.2,
 22 ADAAG 4.30.7*.

23 **Inside Store**

- 24 2. The aisles inside the store are too narrow for wheelchairs in
 25 violation of California Title 24 §1133B.6.2, ADAAG 7.3*(2).
 26 3. There are no accessible checkout counters in violation of
 27 California Title 24 §1122B.4, ADAAG 4.3.1, 7.2(1)(2).

28 **Women's Restroom**

4. The restroom door handles are twist and turn in violation of California Title 24 §1133B.2.5.2, ADAAG 4.13.9*.
5. There is not enough space to maneuver a wheelchair within the water closet for transfer to the toilet in violation of California Title 24 §1115B.7.(3), ADAAG 4.23.3*.
6. The hot water pipes under the sink are not insulated or otherwise wrapped in violation of California Title 24 §1115B.2.1.2.2, ADAAG 4.19.4.
7. The mirror is mounted higher than the maximum allowable height in violation of California Title 24 §1115B.9.1(2), ADAAG 4.19.6*.
8. The toilet tissue dispenser is too high in violation of California Title 24 §1115B.9.3, ADAAG 4.16.6.
9. There are no grab bars in the water closet in violation of California Title 24 §1115B.8.1, ADAAG 4.16.4, 4.26.1.
10. There is no accessible signage on the restroom door in violation of California Title 24 §1115B.5, ADAAG 4.30.7.
11. The paper towel dispenser is too high in violation of California Title 24 §1115B.9.2, ADAAG 4.23.7.

The above barriers interfered with Plaintiff's access and continue to deter Plaintiff from visiting said facilities, and as a legal result, Plaintiff **ANNA ESCOBEDO** suffers violation of her civil rights to full and equal enjoyment of goods, services, facilities and privileges, and has and will suffer embarrassment and humiliation.

FACTUAL ALLEGATIONS

5. Plaintiff **ANNA ESCOBEDO** is, and at all times relevant to this Complaint is, a “physically handicapped person, “physically disabled person,” and a “person with a disability,” as these terms are used under California law and under federal laws including, but not limited to, Title III of the *Americans with Disabilities Act of 1990*. (The terms

1 “physically handicapped person,” “physically disabled person,” and a “person with a
2 disability” will be used interchangeably throughout this Complaint.) Plaintiff is a
3 “person with a disability,” as defined by all applicable California and United State’s laws.
4 Plaintiff **ANNA ESCOBEDO** is severely limited in the use of her legs.

5 6. Defendants **BIG LOTS STORES, INC., PNS STORES, INC., MIDEB**
6 **NOMINEES, INC., and DOES ONE TO TEN, inclusive**, at all times relevant herein
7 were and are the owners and operators; lessors and/or lessees, franchisers and/or
8 franchisees, of public facilities known as the “**BIG LOTS STORE #4054**,” located at
9 Santa Maria, California, subject to the requirements of California state law requiring full
10 and equal access to public facilities pursuant to *California Health & Safety Code* §
11 19955, *et seq.*, *California Civil Code* §§ 51, 51.5, 52(a), 52.1, 54, 54.1, 54.3 and 55, and
12 subject to Title III of the *Americans with Disabilities Act of 1990*, and to all other legal
13 requirements referred to in this Complaint. Plaintiff does not know the relative
14 responsibilities of defendants in the operation of the facilities herein complained of, and
15 alleges a joint venture and common enterprise by all such defendants.

16 7. Defendants **BIG LOTS STORES, INC., PNS STORES, INC., MIDEB**
17 **NOMINEES, INC., and DOES ONE TO TEN, inclusive** (hereinafter alternatively
18 referred to collectively as “defendants”), at all times relevant herein were and are owners,
19 possessors, builders and keepers of the “**BIG LOTS STORE #4054**” in Santa Maria,
20 California.

21 8. Defendants **BIG LOTS STORES, INC., PNS STORES, INC., MIDEB**
22 **NOMINEES, INC., and DOES ONE TO TEN, inclusive** are the owners and operators
23 of the subject “**BIG LOTS STORE #4054**” at all times relevant to this Complaint.
24 Plaintiff is informed and believes that each of the defendants herein is the agent,
25 employee or representative of each of the other defendants, and performed all acts and
26 omissions stated herein within the scope of such agency or employment or representative
27 capacity and is responsible in some manner for the acts and omissions of the other
28 defendants in legally causing the damages complained of herein, and have approved or

1 ratified each of the acts or omissions of each other defendant, as herein described.

2 9. Plaintiff **ANNA ESCOBEDO** does not know the true names and capacities
3 of defendants **BIG LOTS STORES, INC., PNS STORES, INC., MIDEB**
4 **NOMINEES, INC., and DOES ONE TO TEN, inclusive**, their business capacities,
5 their ownership connection to the property and business, nor their relative responsibilities
6 in causing the access violations herein complained of, and alleges a joint venture and
7 common enterprise by all such defendants. Plaintiff is informed and believes that each of
8 the defendants herein, including DOES ONE TO TEN, inclusive, is the agent, ostensible
9 agent, master, servant, employer, employee, representative, franchiser, franchisee, joint
10 venturer, partner, and associate, or such similar capacity, of each of the other defendants,
11 and was at all times acting and performing, or failing to act or perform, with the
12 authorization, consent, permission or ratification of each of the other defendants, and is
13 responsible in some manner for the acts and omissions of the other defendants in legally
14 causing the violations and damages complained of herein, and have approved or ratified
15 each of the acts or omissions of each other defendant, as herein described. Plaintiff will
16 seek leave to amend this Complaint when the true names, capacities, connections and
17 responsibilities of defendants **BIG LOTS STORES, INC., PNS STORES, INC.,**
18 **MIDEB NOMINEES, INC., and DOES ONE TO TEN, inclusive**, are ascertained.

19 10. Plaintiff is informed and believes that all named defendants, including
20 DOES ONE TO TEN, inclusive, conspired to commit the acts described herein, or
21 alternatively, aided and abetted one another in the performance of the wrongful acts
22 hereinafter alleged.

23 11. Defendants **BIG LOTS STORES, INC., PNS STORES, INC., MIDEB**
24 **NOMINEES, INC., and DOES ONE TO TEN, inclusive**, are the owners and operators
25 of “**BIG LOTS STORE #4054**,” located at Santa Maria, California. This store,
26 including, but not limited to, parking spaces and access aisles and access routes, are each
27 a part of a “public accommodation or facility” subject to the requirements of *California*
28 *Health & Safety Code* § 19955, *et seq.*, and of *California Civil Code* §§ 51, 52(a), 54,

54.1, *et seq.* On information and belief, this "**BIG LOTS STORE #4054**" was constructed after 1990 which has subjected the "**BIG LOTS STORE #4054**" to handicapped access requirements per *California Health & Safety Code* § 19959, and applicable portions of *California Code of Regulations*, Title 24, (the State Building Code).

12. On or about February 12, 2008, Plaintiff, **ANNA ESCOBEDO**, visited the "**BIG LOTS STORE #4054**" in Santa Maria, California for the purpose of making a purchase. Defendants **BIG LOTS STORES, INC., PNS STORES, INC., MIDEB NOMINEES, INC., and DOES ONE TO TEN, inclusive**, interfered with Plaintiff's access to the "**BIG LOTS STORE #4054**" as set forth in Paragraph 4 above.

Said acts and omissions denied Plaintiff legal handicapped access to the "**BIG LOTS STORE #4054**" according to federal and state law.

13. Plaintiff's home, in Santa Maria, California, is approximately 1-1/2 miles from the "**BIG LOTS STORE #4054**," in Santa Maria, California. Plaintiff travels regularly to Santa Maria for pleasure and/or business. Plaintiff intends to return to "**BIG LOTS STORE #4054**" in Santa Maria, California when this public accommodation is made accessible.

14. Plaintiff encountered and/or is informed and believes that the following architectural barriers, which violate the requirements of the *California Code of Regulations* Title 24 and *ADAAG*, existed and continue to exist thereby denying Plaintiff and those similarly situated full and equal access to the subject public facility as set forth in Paragraph 4 above.

15. Defendants, and each of them, discriminated against Plaintiff **ANNA ESCOBEDO** on the basis of her physical disability, and interfered with her access to the "**BIG LOTS STORE #4054**" establishment, in violation of both California law including, but not limited to, *California Civil Code* §§ 51, 51.5, 54, 54.1, and a violation of Title III, §302, the "Prohibition of Discrimination" provision and §503, the "Prohibition Against Retaliation or Coercion" provision of the *Americans with*

1 ***Disabilities Act of 1990.***

2 16. As a result of the actions and failure to act of defendants, and each of them,
3 and as a result of the failure to provide appropriate accessible parking, proper signage,
4 proper accessible entryways, and accessible accommodations, Plaintiff **ANNA**
5 **ESCOBEDO** suffered and will suffer a loss of her civil rights to full and equal access to
6 public facilities, and further suffered and will suffer emotional distress, mental distress,
7 mental suffering, mental anguish, which includes shame, humiliation, embarrassment,
8 anger, chagrin, disappointment and worry, expectedly and naturally associated with a
9 person with a physical disability being denied access to a public accommodation, all to
10 her damages as prayed hereinafter in an amount within the jurisdiction of this court.

11 **I. FIRST CAUSE OF ACTION:**

12 VIOLATION OF ***THE AMERICANS WITH DISABILITIES ACT OF 1990***
13 (42 ***USC*** §12101 *et seq.*)

14 17. Plaintiff repleads and incorporates by reference, as if fully set forth again
15 herein, the allegations contained in paragraphs 1 through 16 of this Complaint and
16 incorporates them herein as if separately repled.

17 18. Pursuant to law, in 1990 the United States Congress made findings per 42
18 ***USC*** § 12101 regarding persons with physical disabilities, finding that laws were needed
19 to more fully protect 43 million Americans with one or more physical or mental
20 disabilities; [that] historically society has tended to isolate and segregate individuals with
21 disabilities; [that] such forms of discrimination against individuals with disabilities
22 continue to be a serious and pervasive social problem; [that] the nation's proper goals
23 regarding individuals with disabilities are to assure equality of opportunity, full
24 participation, independent living and economic self-sufficiency for such individuals; [and
25 that] the continuing existence of unfair and unnecessary discrimination and prejudice
26 denies people with disabilities the opportunity to compete on an equal basis and to pursue
27 those opportunities for which our free society is justifiably famous.

28 19. Congress stated as its purpose in passing the ***Americans with Disabilities***

1 *Act of 1990* (42 *USC* § 12102):

2 It is the purpose of this act (1) to provide a clear and comprehensive
3 national mandate for the elimination of discrimination against individuals
4 with disabilities; (2) to provide clear, strong, consistent, enforceable
5 standards addressing discrimination against individuals with disabilities; (3)
6 to ensure that the Federal government plays a central role in enforcing the
7 standards established in this act on behalf of individuals with disabilities;
8 and (4) to invoke the sweep of Congressional authority, including the power
9 to enforce the 14th Amendment and to regulate commerce, in order to
10 address the major areas of discrimination faced day to day by people with
11 disabilities.

12 20. As part of the *Americans with Disabilities Act of 1990*, Public Law 101-336
13 (hereinafter the “ADA”), Congress passed “Title III - Public Accommodations and
14 Services Operated by Private Entities” (42 *USC* § 12181 *et seq.*). Among the public
15 accommodations identified for purposes of this title were “a bakery, grocery store,
16 clothing store, hardware store, shopping center, or other sales or rental establishment.”

17 21. Pursuant to 42 *USC* § 12182,

18 “No individual shall be discriminated against on the basis of disability
19 in the full and equal enjoyment of the goods, services, facilities, privileges,
20 advantages, or accommodations of any place of public accommodation by
21 any person who owns, leases (or leases to), or operates a place of public
22 accommodation.”

23 22. Among the general prohibitions against discrimination were included in 42
24 *USC* §12182(b)(1)(A)(i):

25 **Denial of participation.** It shall be discriminatory to subject an
26 individual or class of individuals on the basis of a disability or disabilities of
27 such individual or class, directly, or through contractual, licensing, or other
28 arrangements, to a denial of the opportunity of the individual or class to

1 participate in or benefit from the goods, services, facilities, privileges,
2 advantages, or accommodations of an entity.

3 23. Among the general prohibitions against discrimination were included in 42
4 *USC* §12182(b)(1)(E):

5 **Association** -- It shall be discriminatory to exclude or otherwise deny
6 equal goods, services, facilities, privileges, advantages, accommodations, or
7 other opportunities to an individual or entity because of the known disability
8 of an individual with whom the individual or entity is known to have a
9 relationship or association.

10 The acts of defendants set forth herein were a violation of Plaintiff's rights under the
11 ADA, Public Law 101-336, and the regulations promulgated thereunder, 28 *CFR* Part 36
12 et seq.

13 24. Among the general prohibitions against discrimination were included in 42
14 *USC* § 12182(b)(2)(A)(i) and 42 *USC* § 12182(b)(2)(A)(ii):

15 **Discrimination.** For purposes of subsection (a), discrimination
16 includes -

17 (i) the imposition or application of eligibility criteria that screen out or
18 tend to screen out an individual with a disability or any class of individuals
19 with disabilities from fully and equally enjoying any goods, services,
20 facilities, privileges, advantages, or accommodations, unless such criteria
21 can be shown to be necessary for the provision of the goods, services,
22 facilities, privileges, advantages, or accommodations being offered;

23 (ii) a failure to make reasonable modifications in policies, practices, or
24 procedures, when such modifications are necessary to afford such goods,
25 services, facilities, privileges, advantages, or accommodations to individuals
26 with disabilities, unless the entity can demonstrate that making such
27 modifications would fundamentally alter the nature of such goods, services,
28 facilities, privileges, advantages, or accommodations.

1 25. Plaintiff alleges that constructing the eligibility requirements, policies,
2 practices and procedure for entry to the "**BIG LOTS STORE #4054**" facility by persons
3 with disabilities and their companions as established by the defendants can be simply
4 modified to eliminate disparate and discriminatory treatment of persons with disabilities
5 by properly constructing barrier free access for safe and full and equal enjoyment of the
6 "**BIG LOTS STORE #4054**" as that enjoyed by other people.

7 26. The specific prohibition against retaliation and coercion is included in the
8 *Americans With Disabilities Act of 1990* § 503(b) and the *Remedies and Procedures* in §
9 503(c):

10 (b) Interference, Coercion, or Intimidation. - It shall be unlawful to
11 coerce, intimidate, threaten, or interfere with any individual in the exercise
12 or enjoyment of, or on account of his or her having exercised or enjoyed, or
13 on account of his or her having aided or encouraged any other individual in
14 the exercise or enjoyment of, any right granted or protected by this Act.

15 (c) Remedies and Procedure. - The remedies and procedures available
16 under sections 107, 203, and 308 of this Act shall be available to aggrieved
17 persons for violations of subsections (a) and (b), with respect to Title I, Title
18 II and Title III, respectively.

19 27. Among the specific prohibitions against discrimination were included, in 42
20 *USC* § 12182(b)(2)(a)(iv), "A failure to remove architectural barriers, and
21 communications barriers that are structural in nature, in existing facilities...where such
22 removal is readily achievable;" and (v) "where and entity can demonstrate that the
23 removal of a barrier under clause (iv) is not readily achievable, a failure to make such
24 goods, services, facilities, privileges, advantages, or accommodations available through
25 alternative methods if such methods are readily achievable." The acts of Defendants set
26 forth herein were a violations of Plaintiff's rights under the "ADA," Public Law 101-336,
27 and the regulations promulgated thereunder, 28 *CFR* Part 36, *et seq.*

28 28. The removal of the barriers complained of by Plaintiff as hereinabove

1 alleged were at all times after 1990 “readily achievable.” On information and belief, if
2 the removal of all the barriers complained of here together were not “readily achievable,”
3 the removal of each individual barrier complained of herein was “readily achievable.”

4 29. Per 42 *USC* § 12181(9), “The term ‘readily achievable’ means easily
5 accomplishable and able to be carried out without much difficulty or expense.” The
6 statute and attendant regulations define relative “expense” in relation to the total financial
7 resources of the entities involved, including any “parent” companies. Plaintiff alleges
8 that properly repairing each of the items that Plaintiff complains of herein is readily
9 achievable, including, but not limited to, correcting and repairing the items set forth in
10 Paragraph 4 above.

11 The changes needed to remove barriers to access for the disabled were and are
12 “readily achievable” by the defendants under standards set forth under 42 *USC* § 12181
13 of the *Americans with Disabilities Act of 1990*. (Further, if it was not “readily
14 achievable” for defendants to remove all such barriers, defendants have failed to make
15 the required services available through alternative methods, although such methods are
16 achievable as required by 42 *USC* §12181(b)(2)(a)(iv), (v).)

17 30. Pursuant to the *Americans with Disabilities Act of 1990*, §308 (42 *USC* §
18 12188 *et seq.*), Plaintiff is entitled to the remedies and procedures set forth in the *Civil*
19 *Rights Act of 1964* §204(a), (42 *USC* § 2000a-3(a)), as Plaintiff is being subjected to
20 discrimination on the basis of disability in violation of this title and/or Plaintiff has
21 reasonable grounds for believing that she is about to be subjected to discrimination in
22 violation of *Americans With Disabilities Act of 1990* §302. Plaintiff cannot return to or
23 make use of the public facilities complained of herein for the purpose of entry and
24 provision of goods and service so long as defendants continue to apply eligibility criteria,
25 policies, practices and procedures to screen out and refuse to allow entry and service to
26 persons with disabilities such as Plaintiff’s.

27 31. Defendants’, and each of their acts and omissions of failing to provide
28 barrier free handicapped access for Plaintiff, were tantamount to interference, coercion or

1 intimidation pursuant to *Americans With Disabilities Act of 1990* §503(b) (now 42 *USC*
2 § 12203):

3 It shall be unlawful to coerce, intimidate, threaten, or interfere with
4 any individual in the exercise or enjoyment of, or on account of his or her
5 having aided or encouraged any other individual in the exercise or
6 enjoyment of, any right granted or protected by this Act.

7 32. Per *Americans With Disabilities Act of 1990* § 308(a)(1) (now 42 *USC* §
8 12188), “Nothing in this section shall require a person with a disability to engage in a
9 futile gesture if such person has actual notice that a person or organization covered by
10 this title does not intend to comply with its provisions.” Pursuant to this last section,
11 Plaintiff, on information and belief, alleges that defendants have continued to violate the
12 law and deny the rights of Plaintiff and other disabled persons to access this public
13 accommodation for the purpose of making a purchase. Therefore, Plaintiff seeks
14 injunctive relief pursuant to §308(a)(2),

15 “...Where appropriate, injunctive relief shall also include requiring
16 the provision of an auxiliary aid or service, modifications of a policy, or
17 provision of alternative methods, to the extent required by this title.”

18 33. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the *Civil*
19 *Rights Act of 1964* (42 *USC* § 2000a-3(a), and pursuant to federal regulations adopted to
20 implement the *Americans with Disabilities Act of 1990*, including, but not limited to, an
21 order granting injunctive relief and attorneys’ fees. Such attorneys’ fees, “including
22 litigation expenses and costs,” are further specifically provided for by §505 of Title III.

23 **II. SECOND CAUSE OF ACTION**

24 BREACH OF STATUTORY PROTECTIONS FOR PERSONS WITH
25 PHYSICAL DISABILITIES (*California Health & Safety Code* § 19955, *et seq.*)

26 34. Plaintiff repleads and incorporates by reference, as if fully set forth again
27 herein, the allegations contained in paragraphs 1 through 31 of this Complaint and
28 incorporate them herein as if separately repled.

1 35. *California Health & Safety Code* § 19955 provides in pertinent part:

2 The purpose of this part is to insure that public accommodations or
 3 facilities constructed in this state with private funds adhere to the provisions
 4 of Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the
 5 *Government Code*. For the purposes of this part “public accommodation or
 6 facilities” means a building, structure, facility, complex, or improved area
 7 which is used by the general public and shall include auditoriums, hospitals,
 8 theaters, restaurants, hotels, motels, stadiums, and convention centers.
 9 When sanitary facilities are made available for the public, clients or
 10 employees in such accommodations or facilities, they shall be made
 11 available for the handicapped.

12 36. *California Health & Safety Code* § 19956, which appears in the same
 13 chapter as §19955, provides in pertinent part, “accommodations constructed in this state
 14 shall conform to the provisions of Chapter 7 (commencing with Sec. 4450) of Division 5
 15 of Title 1 of the *Government Code*...” *California Health & Safety Code* § 19956 was
 16 operative July 1, 1970, and is applicable to all public accommodations constructed or
 17 altered after that date. On information and belief, portions of “**BIG LOTS STORE**
 18 **#4054**” and/or of its buildings, were constructed and/or altered after July 1, 1970, and
 19 substantial portions of said building had alterations, structural repairs, and/or additions
 20 made to such public accommodations after July 1, 1970, thereby requiring said public
 21 accommodations and/or buildings to be subject to the requirements of Part 5.5,
 22 *California Health & Safety Code* § 19955, *et seq.*, upon such alteration, structural repairs
 23 or additions per *California Health & Safety Code* § 19959.

24 37. Pursuant to the authority delegated by *California Government Code* § 4450,
 25 *et seq.*, the State Architect promulgated regulations for the enforcement of these
 26 provisions. Effective January 1, 1982, Title 24 of the *California Administrative Code*
 27 adopted the California State Architect’s Regulations and these regulations must be
 28 complied with as to any alterations and/or modifications of the “**BIG LOTS STORE**

1 **#4054**” occurring after that date. Construction changes occurring prior to this date but
2 after July 1, 1970 triggered access requirements pursuant to the “ASA” requirements, the
3 *American Standards Association Specifications*, A117.1-1961. On information and
4 belief, at the time of the construction and modification of said building, all buildings and
5 facilities covered were required to conform to each of the standards and specifications
6 described in the *American Standards Association Specifications* and/or those contained
7 in Title 24 of the *California Administrative Code*, (now known as Title 24, *California*
8 *Code of Regulations*.)

9 38. Public facilities, such as “**BIG LOTS STORE #4054**” are public
10 accommodations or facilities within the meaning of *California Health & Safety Code* §
11 19955, *et seq.*

12 39. It is difficult or impossible for persons with physical disabilities who use
13 wheelchairs, canes, walkers and service animals to travel about in public to use stores
14 with the defects set forth in Paragraph 4 above as required by Title 24 of the *California*
15 *Code of Regulations* and the *Americans with Disabilities Act Access Guidelines*
16 (*ADAAG*). Thus, when public accommodations fail to provide accessible public
17 facilities, persons with physical disabilities are unable to enter and use said facilities, and
18 are denied full and equal access to and use of that facility that is enjoyed by other
19 members of the general public.

20 40. Plaintiff **ANNA ESCOBEDO** and other similarly situated persons with
21 physical disabilities whose physical conditions require the use of wheelchairs, canes,
22 walkers and service animals are unable to use public facilities on a “full and equal” basis
23 unless each such facility is in compliance with the provisions of the *California Health &*
24 *Safety Code* § 19955, *et seq.* Plaintiff is a member of that portion of the public whose
25 rights are protected by the provisions of *California Health & Safety Code* § 19955, *et*
26 *seq.*

27 41. The *California Health & Safety Code* was enacted “[t]o ensure that public
28 accommodations or facilities constructed in this state with private funds adhere to the

1 provisions of Chapter 7 (commencing with §4450) of Division 5 of Title 1 of the
2 *Government Code*.” Such public accommodations are defined to include stores.

3 42. Plaintiff is further informed and believes that as of the date of filing this
4 Complaint, Defendants have not made accessible the facilities at the subject store as set
5 forth in Paragraph 4 above.

6 43. Plaintiff **ANNA ESCOBEDO** is informed and believes, and therefore
7 alleges, that Defendants **BIG LOTS STORES, INC., PNS STORES, INC., MIDEB**
8 **NOMINEES, INC., and DOES ONE TO TEN, inclusive**, and each of them, caused the
9 subject buildings constituting “**BIG LOTS STORE #4054**” to be constructed, altered
10 and maintained in such a manner that persons with physical disabilities were denied full
11 and equal access to, within and throughout said buildings and were denied full and equal
12 use of said public facilities, and despite knowledge and actual and constructive notice to
13 such Defendants that the configuration of the store and/or buildings was in violation of
14 the civil rights of persons with physical disabilities, such as Plaintiff. Such construction,
15 modification, ownership, operation, maintenance and practices of such public facilities
16 are in violation of law as stated in Part 5.5, *California Health & Safety Code* § 19955, *et*
17 *seq.*, and elsewhere in the laws of California.

18 44. On information and belief, the subject building constituting the public
19 facilities of “**BIG LOTS STORE #4054**” denied full and equal access to Plaintiff and
20 other persons with physical disabilities in other respects due to non-compliance with
21 requirement of Title 24 of the *California Code of Regulations* and *California Health &*
22 *Safety Code* § 19955, *et seq.*

23 45. The basis of Plaintiff’s aforementioned information and belief is the various
24 means upon which Defendants must have acquired such knowledge, including, but not
25 limited to, this lawsuit, other access lawsuits, communications with operators of other
26 stores and other property owners regarding denial access, communications with Plaintiff
27 and other persons with disabilities, communications with other patrons who regularly
28 visit there, communications with owners of other businesses, notices and advisories they

1 obtained from governmental agencies through the mails, at seminars, posted bulletins,
2 television, radio, public service announcements, or upon modification, improvement,
3 alteration or substantial repair of the subject premises and other properties owned by
4 these Defendants, newspaper articles and trade publications regarding the *Americans*
5 *with Disabilities Act of 1990* and other access law, and other similar information. The
6 scope and means of the knowledge of each defendant is within each defendant's
7 exclusive control and cannot be ascertained except through discovery.

8 46. As a result of Defendants' acts and omissions in this regard, Plaintiff has
9 been required to incur legal expenses and hire attorneys in order to enforce her civil
10 rights and enforce provisions of the law protecting access for persons with physical
11 disabilities and prohibiting discrimination against persons with physical disabilities, and
12 to take such action both in her own interests and in order to enforce an important right
13 affecting the public interest. Plaintiff, therefore, seeks damages in this lawsuit for
14 recovery of all reasonable attorneys' fees incurred, pursuant to the provisions of the
15 *California Code of Civil Procedure* § 1021.5. Plaintiff additionally seeks attorneys' fees
16 pursuant to *California Health & Safety Code* § 19953 and *California Civil Code* §§ 54.3
17 and 55.

18 47. Defendants, and each of them, at times prior to and including February 12,
19 2008, and continuing to the present time, knew that persons with physical disabilities
20 were denied their rights of equal access to all portions of this public facility. Despite
21 such knowledge, Defendants failed and refused to take steps to comply with the
22 applicable access statutes; and despite knowledge of the resulting problems and denial of
23 civil rights thereby suffered by Plaintiff **ANNA ESCOBEDO** and other similarly situated
24 persons with disabilities, including the specific notices referred to in paragraph 43 of this
25 Complaint. Defendants have failed and refused to take action to grant full and equal
26 access to persons with physical disabilities in the respects complained of hereinabove.
27 Defendants and each of them have carried out a course of conduct of refusing to respond
28 to, or correct complaints about, denial of handicap access.

48. As a result of the actions and failure of Defendants, and each of them, and as a result of the failure to provide proper accessible public facilities, Plaintiff **ANNA ESCOBEDO** was denied her civil rights, including her right to full and equal access to public facilities, was embarrassed and humiliated, suffered physical, psychological and mental injuries and emotional distress, mental distress, mental suffering, mental anguish, which includes shame, humiliation, embarrassment, anger, chagrin, disappointment and worry, expectedly and naturally associated with a person with a physical disability being denied access to a public accommodation.

WHEREFORE, Plaintiff prays for damages as hereinafter stated.

III. THIRD CAUSE OF ACTION

VIOLATION OF CALIFORNIA'S CIVIL RIGHTS ACTS

(*California Civil Code* §§ 54, 54.1 and 54.3)

49. Plaintiff repleads and incorporates by reference as if fully set forth again herein, the allegations contained in paragraphs 1 through 48 of this Complaint and incorporates them herein as if separately repled.

50. The public facilities above-described constitute public facilities and public accommodations within the meaning of *California Health & Safety Code* § 19955 *et seq.* and were facilities to which members of the public are invited. The aforementioned acts and omissions of defendants, and each of them, constitute a denial of equal access to and use and enjoyment of these facilities by persons with disabilities, including Plaintiff **ANNA ESCOBEDO**. Said acts and omissions are also in violation of provisions of Title 24 of the *California Code of Regulations*.

51. The rights of Plaintiff, the entitlement of Plaintiff to full and equal access and the denial by defendants of such rights and entitlements are set forth in *California Civil Code* §§ 54, 54.1 and 54.3, to wit:

Individuals with disabilities shall have the same right as the...general public to full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places. *California Civil*

1 *Code* § 54(a).

2 Individuals with disabilities shall be entitled to full and equal access,
3 as other members of the general public, to accommodations, advantages,
4 facilities, and privileges of all common carriers, airplanes, motor vehicles,
5 railroad trains, motor buses, streetcars, boats, or any other public
6 conveyances or modes of transportation (whether private, public, franchised,
7 licensed, contracted, or otherwise provided), telephone facilities, adoption
8 agencies, private schools, hotels, lodging places, places of public
9 accommodation, amusement or resort, and other places to which the general
10 public is invited, subject only to the conditions and limitations established
11 by law, or state or federal regulation, and applicable alike to all persons.

12 *California Civil Code* § 54.1(a).

13 52. On or about February 12, 2008, Plaintiff **ANNA ESCOBEDO** suffered
14 violations of *California Civil Code* §§ 54 and 54.1 in that she was denied full and equal
15 enjoyment of the goods, services, facilities and privileges of said **BIG LOTS STORE**
16 **#4054**, as set forth in paragraph 4 above. Plaintiff was also denied full and equal access
17 to other particulars, including, but not limited to, those described hereinabove. Plaintiff
18 was also denied use of facilities that she was entitled to under Title III of the *Americans*
19 *with Disabilities Act of 1990*.

20 53. As a result of the denial of full and equal enjoyment of the goods, services,
21 facilities and privileges of defendants' **BIG LOTS STORE #4054** due to the acts and
22 omissions of defendants, and each of them, in owning, operating, and maintaining this
23 subject public facility, Plaintiff suffered violations of her civil rights, including, but not
24 limited to, rights under *California Civil Code* §§ 54, 54.1, and 54.3, and has and will
25 suffer physical injury, emotional distress, mental distress, mental suffering, mental
26 anguish, which includes shame, humiliation, embarrassment, anger, chagrin,
27 disappointment and worry, expectedly and naturally associated with a disabled person's
28 denial of full and equal enjoyment of goods, services, privileges, etc., all to her damages

1 as prayed hereinafter in an amount within the jurisdiction of the court. Defendants'
2 actions and omissions to act constituted discrimination against Plaintiff on the sole basis
3 that Plaintiff was physically disabled.

4 54. Plaintiff seeks damages for the violation of her rights as a disabled person on
5 or about February 12, 2008, according to proof, pursuant to *California Civil Code* § 54.3,
6 including a trebling of all statutory and actual damages, general and special, available
7 pursuant to *California Civil Code* § 54.3(a).

8 55. As a result of defendants' acts and omissions in this regard, Plaintiff **ANNA**
9 **ESCOBEDO** has been required to incur legal expenses and hire attorneys in order to
10 enforce her rights and enforce provisions of the law protecting the full and equal
11 enjoyment of goods, services, facilities, privileges of public facilities by the disabled, and
12 those individuals associated with or accompanied by a person with disabilities, and
13 prohibiting discrimination against the disabled. Plaintiff, therefore, seeks recovery in this
14 lawsuit for all reasonable attorneys' fees incurred pursuant to the provisions of *California*
15 *Civil Code* § 54.3. Additionally, Plaintiff's lawsuit is intended not only to obtain
16 compensation for damages to Plaintiff, but also to compel the defendants to make their
17 goods, services, facilities and privileges available and accessible to all members of the
18 public with physical disabilities, justifying public interest attorneys' fees pursuant to the
19 provisions of *California Code of Civil Procedure* § 1021.5.

20 56. The acts and omissions of defendants in failing to provide the required
21 accessible facilities subsequent to the enactment date and compliance date of the
22 *Americans with Disabilities Act of 1990*, and refusal to make remedial modifications and
23 alterations to its accessible parking, signage, pathways, and other elements as
24 hereinabove stated, after being notified by patrons before and after the time of Plaintiff's
25 visit, on or about February 12, 2008, and all times prior thereto with the knowledge that
26 persons with disabilities would enter defendants' premises, the reason given therefor, was
27 an established policy, practice and procedure of refusing and denying entry, thereby
28 denying services to a person with disabilities and the companions thereof, evidence

malice and oppression toward Plaintiff and other disabled persons.

57. Defendants have failed to establish a nondiscriminatory criteria, policy, practice and procedure for entry into said "**BIG LOTS STORE #4054**" as hereinabove described.

58. As a result of defendants' continuing failure to provide for the full and equal enjoyment of goods, services, facilities and privileges of said "**BIG LOTS STORE #4054**" as hereinabove described, Plaintiff has continually been denied her rights to full and equal enjoyment of the subject store, as it would be a "futile gesture" to attempt to patronize said "**BIG LOTS STORE #4054**" with the discriminatory policy in place as hereinabove described.

59. The acts and omissions of defendants as complained of herein in failing to provide the required accessible facilities subsequent to the enactment date and compliance date of the *Americans with Disabilities Act of 1990* and refusal to make remedial modifications and alternations to the architectural barriers as stated herein and in failing to establish practices, policies and procedures to allow safe access by persons who are disabled are continuing on a day-to-day basis to have the effect of wrongfully and willfully excluding Plaintiff and other members of the public who are physically disabled, from full and equal enjoyment of the subject "**BIG LOTS STORE #4054**" as hereinabove described. Such acts and omissions are the continuing cause of humiliation and mental and emotional suffering of Plaintiff in that these actions continue to treat Plaintiff as an inferior and second class citizen and serve to discriminate against her on the sole basis that she is a physically disabled. Plaintiff is unable, so long as such acts and omissions of defendants continue, to achieve full and equal enjoyment of the goods and services of said "**BIG LOTS STORE #4054**" as described hereinabove. The acts of defendants have legally caused and will continue to cause irreparable injury to Plaintiff if not enjoined by this court.

60. Wherefore, Plaintiff asks this court to preliminarily and permanently enjoin any continuing refusal by defendants to permit entry to said "**BIG LOTS STORE**

1 **#4054**" and to serve Plaintiff or others similarly situated, and to require defendants to
 2 comply forthwith with the applicable statutory requirements relating to the full and equal
 3 enjoyment of goods and services as described hereinabove for disabled persons. Such
 4 injunctive relief is provided by *California Civil Code* § 55. Plaintiff further requests that
 5 the court award statutory costs and attorneys' fees to Plaintiff pursuant to *California*
 6 *Civil Code* § 55 and *California Code of Civil Procedure* § 1021.5, all as hereinafter
 7 prayed for.

8 WHEREFORE, Plaintiff prays for compensatory damages, reasonable attorneys'
 9 fees and costs of suit, as allowed by statute and according to proof.

10 **IV. FOURTH CAUSE OF ACTION**
 11 **VIOLATIONS OF *UNRUH CIVIL RIGHTS ACT***
 12 **(*California Civil Code* §§ 51 and 51.5)**

13 59. Plaintiff repleads and incorporates by reference, as if fully set forth again
 14 herein, the allegations contained in paragraphs 1 through 58 of this Complaint and
 15 incorporates them herein as if separately repled.

16 60. Defendants' acts and omissions as specified with regard to the
 17 discriminatory treatment of Plaintiff **ANNA ESCOBEDO** on the basis of her physical
 18 disabilities, have been in violation of *California Civil Code* §§ 51 and 51.5, the *Unruh*
 19 *Civil Rights Act*, and have denied to Plaintiff her rights to "full and equal
 20 accommodations, advantages, facilities, privileges or services in all business
 21 establishments of every kind whatsoever."

22 61. *California Civil Code* § 51 also provides that "[a] violation of the right of
 23 any individual under the *Americans with Disabilities Act of 1990* (Public Law 101-336)
 24 shall also constitute a violation of this section."

25 62. *California Civil Code* § 51.5 also provides that "[n]o business establishment
 26 of any kind whatsoever shall discriminate against, boycott, or blacklist, refuse to buy
 27 from, sell to, or trade with any person in this state because of the race, creed, religion,
 28 color, national origin, sex, disability of the person or of the person's partners, members,

1 stockholders, directors, officers, managers, superintendents, agents, employees, business
2 associates, suppliers, or customers.”

3 63. As a result of the violation of Plaintiff’s civil rights protected by *California*
4 *Civil Code* §§ 51 and, 51.5, Plaintiff is entitled to the rights and remedies of *California*
5 *Civil Code* § 52, including a trebling of actual damages (defined by *California Civil*
6 *Code* § 52(h) to mean “special and general damages”), as well as reasonable attorneys’
7 fees and costs, as allowed by statute, according to proof.

8 WHEREFORE, Plaintiff prays that this court award damages and provide relief as
9 follows:

10 PRAYER FOR RELIEF

11 Plaintiff prays that this court award damages and provide relief as follows:

12 1. Grant injunctive relief requiring that defendants establish a non-
13 discriminatory criteria policy, practice and procedure permitting entry into the **BIG**
14 **LOTS STORE #4054** in Santa Maria, California, for the purpose of obtaining the goods
15 and services accorded therein according to *California Civil Code* §§ 51, 51.5, 52, 54,
16 54.1, 54.3, *et seq.*, and Title III of the *Americans with Disabilities Act of 1990*, and grant
17 injunctive relief requiring that Defendants repair and render safe to disabled persons, and
18 otherwise make accessible, all public areas of the store, including, but not limited to, all
19 barriers to access set forth in Paragraph 4 of this Complaint, and to make all such
20 facilities “readily accessible to and usable by individuals with disabilities,” according to
21 the standards of Title 24 of the *California Administrative Code, California Health &*
22 *Safety Code* § 19955 *et seq.*, and Title III of the *Americans with Disabilities Act of 1990*
23 and the standards of *ADAAG*; and prohibiting operation of the **BIG LOTS STORE**
24 **#4054**, located in Santa Maria, California, as a public facility until Defendants provide
25 full and equal enjoyment of goods and services as described hereinabove to physically
26 disabled persons, including Plaintiff;

27 2. General damages according to proof;

28 3. Statutory and “actual” damages, including general damages and special

1 damages, according to proof, pursuant to *California Civil Code* §§ 52, and 54.3, and that
2 these damages be trebled;

3 4. Prejudgment interest on all compensatory damages;

4 5. Remedies and Procedures available under *Americans with Disabilities Act*
5 *of 1990* §§ 107, 203 and 308;

6 6. Award Plaintiff all litigation expenses, all costs of this proceeding and all
7 reasonable attorneys' fees as provided by law, including, but not limited to, those
8 recoverable pursuant to the provisions of *California Civil Code* §§ 52, 54.3, and 55,
9 *California Code of Civil Procedure* § 1021.5, and *Americans with Disabilities Act of*
10 *1990* §308 of Title III; and

11 7. Grant such other and further relief as the court may deem just and proper.

12 **SINGLETON LAW GROUP**

13
14 Dated: March 14, 2008

/s/ Richard E. Grabowski
Richard E. Grabowski,
Jason K. Singleton, Attorneys for
Plaintiff, **ANNA ESCOBEDO**

17
18 **REQUEST FOR JURY TRIAL**

19 Plaintiffs hereby request a jury for all claims for which a jury is permitted.

20 **SINGLETON LAW GROUP**

21
22 Dated: March 14, 2008

/s/ Richard E. Grabowski
Richard E. Grabowski,
Jason K. Singleton, Attorneys for
Plaintiff, **ANNA ESCOBEDO**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) ANNA ESCOBEDO (b) County of Residence of First Listed Plaintiff (Except in U.S. Plaintiff Cases):	DEFENDANTS BIG LOTS STORES, INC., an Ohio corporation, dba BIG LOTS STORE #4054, PNS STORES, INC., a California corporation, MIDEB NOMINEES, INC., a Nevada corporation, and DOES ONE TO TEN, County of Residence of First Listed Defendant (In U.S. Plaintiff Cases Only):
(c) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) SINGLETON LAW GROUP 707-441-1177 611 L Street, Suite A Eureka, CA 95501	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify):
 ☐ 6 Multi-District Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☐ No **MONEY DEMANDED IN COMPLAINT:** \$ according to proof

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

28 USC §1331, Violations of the Americans With Disabilities Act of 1990 (42 USC §12101, et seq.)

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities /Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input checked="" type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE PENALTIES <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s):

FOR OFFICE USE ONLY: Case Number: _____

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: List the California County, or State if other than California, in which EACH named plaintiff resides (Use an additional sheet if necessary)

☐ Check here if the U.S. government, its agencies or employees is a named plaintiff.

SANTA BARBARA

List the California County, or State if other than California, in which EACH named defendant resides. (Use an additional sheet if necessary).

☐ Check here if the U.S. government, its agencies or employees is a named defendant.

PNS - OHIO

MIDEB - LOS ANGELES

BIG LOTS - OHIO

List the California County, or State if other than California, in which EACH claim arose. (Use an additional sheet if necessary)

Note: In land condemnation cases, use the location of the tract of land involved.

SANTA BARBARA

X. SIGNATURE OF ATTORNEY (OR PRO PER): Richard E. Heiberschi Date 3/14/08

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))